IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 2ND FEBRUARY 2007 / 13TH MAGHA 1928

Crl.MC.No. 254 of 2007()

CC.732/2006 of CHIEF JUDICIAL MAGISTRATE, KASARAGOD

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PETITIONER: PETITIONERS/ACCUSED

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1. M.ABOOBACKER, S/O.ABDULKHADER,
   MANGALAPADAVU, P.O.VITTILA,
   BANDWAL TALUK, D.K. DISTRICT.

2. UMMER, S/O.ABDULKHADER,
   MANGALAPADAVU, P.O.VITTILA.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: COMPLAINANT & STATE

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1. FATHIMATH SUHARA,
   D/O.B.ABDULLA, 'SADIQUE MANZIL',
   MAYINABAG, NEAR MALABAR ISLAMIC COLLEGE,
   P.O.THEKKIL, CHATTANCHAL, KASARGOD DISTRICT.

2. SUB INSPECTOR OF POLICE,
   KASARGOD POLICE STATION,
   KASARGOD.

3. STATE OF KERALA, REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

R2 & 3 BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 254 of 2007

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Dated this the 2nd day of February, 2007

O R D E R

The petitioners are accused in a prosecution under Section 498A r/w. 34 I.P.C. They are the husband and brother-in-law of the defacto complainant - first respondent herein. Cognizance has been taken by the learned Magistrate on the basis of a final report submitted by the police after due investigation. The matter is pending before the learned Chief Judicial Magistrate, Kasargod as C.C.No. 732 of 2006.

2. The short prayer made by the petitioner, which is duly endorsed by the respondent/defacto complainant, is that the disputes between them having been settled amicably as per Annex.B Deed of Agreement, the criminal prosecution initiated against the petitioners may be brought to premature termination invoking the powers under Section 482 Cr.P.C.

3. The learned counsel for the respondent/defacto complainant, Smt. Arlis Trency Antony vouches for the fact that the respondent/defacto complainant has entered into Annex.B agreement

with the first petitioner and that she has no surviving grievance against any of the petitioners.

4. Though the offence under Section 498A I.P.C. is not compoundable under Section 320 Cr.P.C., it is by now trite that such a composition can in an appropriate case be reckoned as sufficient reason to prematurely terminate the proceedings by invoking the powers under Section 482 Cr.P.C. The interests of justice, it has been held, may at times transcend the interests of mere law and in such circumstances the court should not hesitate to invoke the powers under Section 482 Cr.P.C. The spouses have settled their disputes. The marriage has been dissolved. They are residing separately. All disputes have been settled and payments have been effected. I am satisfied that this is an eminently fit case where the powers under Section 482 Cr.P.C. can be invoked. The learned Public Prosecutor does not raise any objection.

5. This Crl.M.C. is hence allowed. Proceedings in C.C.No. 732 of 2006 pending before the Chief Judicial Magistrate, Kasargode against the petitioners is quashed.

(R. BASANT)
Judge

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